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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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May 28, 2020

Captain Kent Wegener
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Robert Evangelista
J.S.I.D. File #19-0489
L.A.S.D. File #019-16422-0294-057

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 25, 2019, non-fatal shooting of Robert Evangelista by members of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Juan Sanchez, #[redacted]
Deputy Joel Calderon, #[redacted]

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MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Robert Evangelista
J.S.I.D. File #19-0489
L.A.S.D. File #019-16422-0294-057

DATE: May 28, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 25, 2019, non-fatal shooting of Robert Evangelista by Los Angeles County Sheriff's Department (LASD) Deputies Juan Sanchez and Joel Calderon. It is our conclusion that Calderon acted in lawful self-defense and Sanchez acted in lawful defense of others.

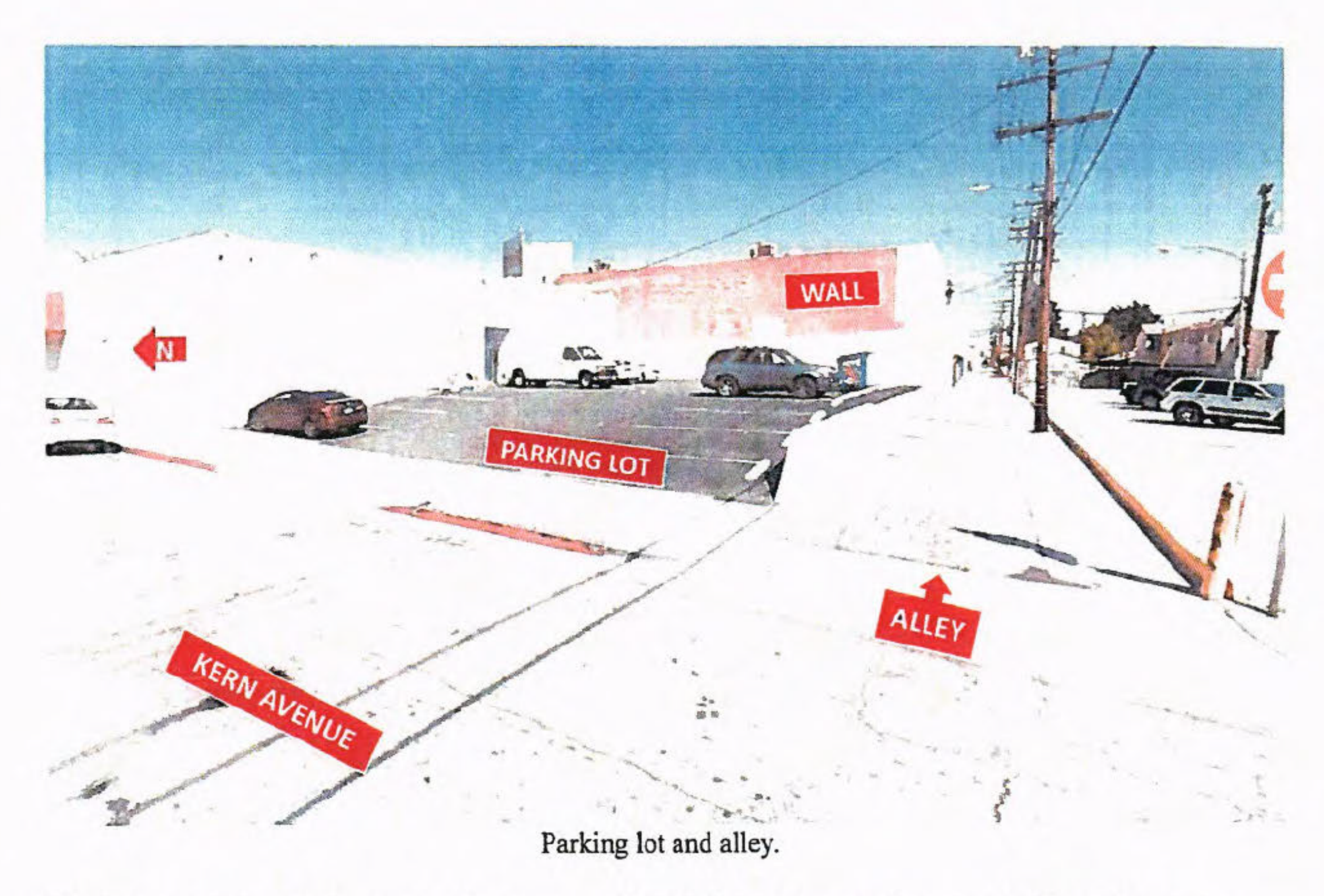
The District Attorney's Command Center was notified of the shooting on November 25, 2019, at approximately 5:00 p.m. The District Attorney Response Team responded and was given a briefing and a walk-through of the scene.

The following analysis is based on police and investigative reports, audio recorded interviews, forensic analysis, surveillance video and photographic evidence submitted to this office by Detectives Dean Camarillo and Matthew Landreth, LASD, Homicide Bureau. Deputies Sanchez and Calderon provided voluntary statements which were considered as part of this analysis.

FACTUAL ANALYSIS

On November 25, 2019, at approximately 3:50 p.m., LASD Deputies Jose Sanchez and Joel Calderon were working uniformed patrol in the unincorporated area of East Los Angeles. Calderon was driving a marked black and white patrol car westbound from Fetterly Avenue, in the alley south of Whittier Boulevard, toward Kern Avenue.

Sanchez and Calderon observed a man, later identified as [redacted] standing outside the passenger side of a tan Mercury Mountaineer that was in the rear parking lot of a business on the southeast corner of Whittier Boulevard and Kern Avenue. The Mountaineer was reversed into a parking space next to a brick wall, facing north.



Parking lot and alley.

The location is in a high crime and gang area. The brick wall is regularly vandalized with gang graffitti. In addition, two rival gangs, one who claims the area that includes the parking lot, had been feuding for the past several weeks. For those reasons, the deputies decided to contact [redacted]

Calderon exited the alley and entered the parking lot. Calderon observed two additional occupants in the vehicle. Robert Evangelista was in the driver's seat and an unidentified man was in the rear passenger seat. Sanchez only saw Evangelista. The windows were tinted, however, the front driver and passenger windows were down.

Evangelista looked in the direction of the approaching black and white patrol car and appeared startled. He immediately leaned forward and began reaching toward the floor. Calderon also observed the rear passenger reaching toward the floor. [redacted] was facing the brick wall and did not appear to immediately notice the approaching patrol car.

Calderon stopped the patrol car at an angle in front of the Mountaineer. Sanchez exited and walked to the driver's door to contact Evangelista. Sanchez ordered Evangelista to stop reaching and show his hands. Evangelista replied, "Okay. Hold on. Hold on. Hold on." but did not comply. Sanchez opened the driver's door and saw that the vehicle was in drive, the engine was running and Evangelista's foot was on the brake. Evangelista continued to reach down to the right between the driver's seat and center console. Sanchez ordered Evangelista to turn off the vehicle and put both hands on the steering wheel. Evangelista again said, "Okay. Hold on." but remained leaning forward.

Meanwhile, Calderon exited the patrol car, approached [redacted] and ordered him to show his hands. [redacted] turned toward Calderon and immediately put his hands in the air. Calderon observed Evangelista and the rear passenger continue to move as if reaching for something under their seats. Sanchez heard Calderon yell, "Stop moving in the back seat! Let me see your hands! Let me see your hands!" At that time, Sanchez used his gun light to illuminate the vehicle's interior and saw the rear passenger leaning forward in the rear seat.

While detaining [redacted] at gunpoint, Calderon observed Evangelista lift a black gun in his right hand from the floor. Calderon believed he yelled, "Oh, fuck!" or "Gun! Gun! Gun!" At the same time that Evangelista raised the gun, the Mountaineer accelerated forward toward Calderon, swerving to the right to avoid the patrol car. In fear that Evangelista was about to point the gun at him and fire, or strike him with the vehicle, Calderon fired five to six rounds at Evangelista.[1]

Sanchez also observed Evangelista lift his right hand holding the gun. Calderon yelled, "Gun! Gun! Gun!" as the Mountaineer drove forward then swerved around the patrol car, nearly striking it. Sanchez simultaneously heard a popping sound that he recognized as gunshots, followed by Calderon yelling, "Oh, fuck!" Sanchez believed that Evangelista, in an attempt to free [redacted] was firing his gun at Calderon and that his partner had been struck by gunfire or the vehicle. Sanchez drew his service weapon and fired three to four rounds at Evangelista.[2]

The Mountaineer exited the parking lot and fled north onto Kern Avenue at a high rate of speed and disappeared from view. Sanchez broadcast the description of the vehicle, license plate and the last direction of travel.

The Mountaineer was located abandoned on Mednik Avenue south of Third Street, approximately one mile from the shooting scene. Surveillance video from a nearby residence captured Evangelista exiting the driver's door and running east onto Third Street. The rear passenger exited and ran north on Mednik Avenue. A witness flagged down an LASD deputy and advised that Evangelista had boarded a City of Montebello transit bus stopped on Third Street.

Evangelista was detained on the bus and identified by Calderon and Sanchez. A black eyeglass case was recovered in Evangelista's right rear jean's pocket. Inside the case was a glass pipe, commonly used to ingest methamphetamine, containing a burnt white residue.

Statement of Robert Evangelista

Evangelista, [redacted] and a man he only knows as "[redacted]" were seated in the Mountaineer in the parking lot when a car stopped diagonally in front of his vehicle. Two men exited the car with their weapons drawn and ran toward him. One of the men stuck a gun in Evangelista's face. In a panic, Evangelista started his vehicle and drove out of the parking lot. He did not realize the two men were deputies until he passed the marked patrol car. At that time, the deputies were shooting at him and he continued to flee in fear.

Evangelista admitted being in possession of a Glock 23, .40 caliber semiautomatic handgun. The firearm and magazine were separated and inside the center console. Evangelista never removed the

[1] An examination of Calderon's service weapon determined that he fired six rounds.

[2] An examination of Sanchez' service weapon determined that he fired three rounds.

gun from the console in the deputies' presence. He denied pointing the gun at the deputies or attempting to assault them with his vehicle.

Evangelista and [redacted] abandoned the vehicle on Mednik Avenue and ran. Evangelista boarded a bus, but does not know where [redacted] went. Evangelista discarded the gun, magazine and its holster in a trash can across from the train station on Third Street.

Evangelista sustained several scratches as a result of jumping fences while fleeing. He also had a deeper laceration that he noticed before abandoning his vehicle and believes it may have been caused by the deputies' gunfire.

Evangelista Injuries

Initially, Evangelista told deputies that he cut himself while jumping a fence. Los Angeles County Fire Department personnel responded to the scene and treated Evangelista. Evangelista advised paramedics that he sustained the injuries to his arm when the deputies fired at him.

Evangelista was treated at East Los Angeles Doctor's Hospital. The treating physician advised that the superficial lacerations and scratches to his arm did not appear consistent with a gunshot wound, but could not categorically rule out the possibility of a gunshot injury.[3]



Evangelista's Injuries

[3] An examination of the Mountaineer revealed five bullet holes and related bullet strikes to the rear lift gate, rear bumper, right rear tire and wheel well, left rear hubcap and left rear tire and wheel well. There was no evidence of any bullet holes or strikes to the front passenger compartment.

Statement of [redacted]

Evangelista lit a cigarette in the Mountaineer after parking in the lot. [redacted] exited the front passenger seat because he does not like the smell of cigarettes. A patrol car casually drove into the lot and stopped to the front of their vehicle. While the deputies were still in the car, [redacted] saw Evangelista reach into the right side of his waistband. Evangelista typically keeps his cell phone at his waist, however, [redacted] could not understand why Evangelista would reach for it in front of the deputies.

As soon as Evangelista reached into his waistband, everything went from "zero to a hundred." The deputies exited the patrol car screaming and pointing their weapons. [redacted] thought Evangelista was going to be shot. Calderon came toward him and he cooperated by putting his hands in the air. At that time, Evangelista fled in his vehicle and Calderon fired his weapon at him. [redacted] does not know why Evangelista fled from the deputies.

Parking Lot Video Surveillance

The Mountaineer is captured driving into the parking lot and reversing into a parking space. [redacted] exits the front passenger door. Approximately two minutes and 30 seconds later, the patrol car enters the lot and stops to the driver's side of the Mountaineer's front bumper. Calderon exits and walks to the passenger side of the vehicle while Sanchez exits and walks to the driver's door.

The driver's door opens eight seconds after Sanchez walks to it. Calderon is no longer visible on the passenger side of the vehicle. Due to the poor quality of the recording and lighting, it is not possible to see what Evangelista is doing inside the vehicle. Eleven seconds later, Evangelista drives forward toward the front driver's side bumper of the patrol car. Sanchez cannot be seen during the shooting. Calderon walks into view as the Mountaineer drives past the patrol car and appears to fire one to two rounds toward the Mountaineer.

Firearm Evidence

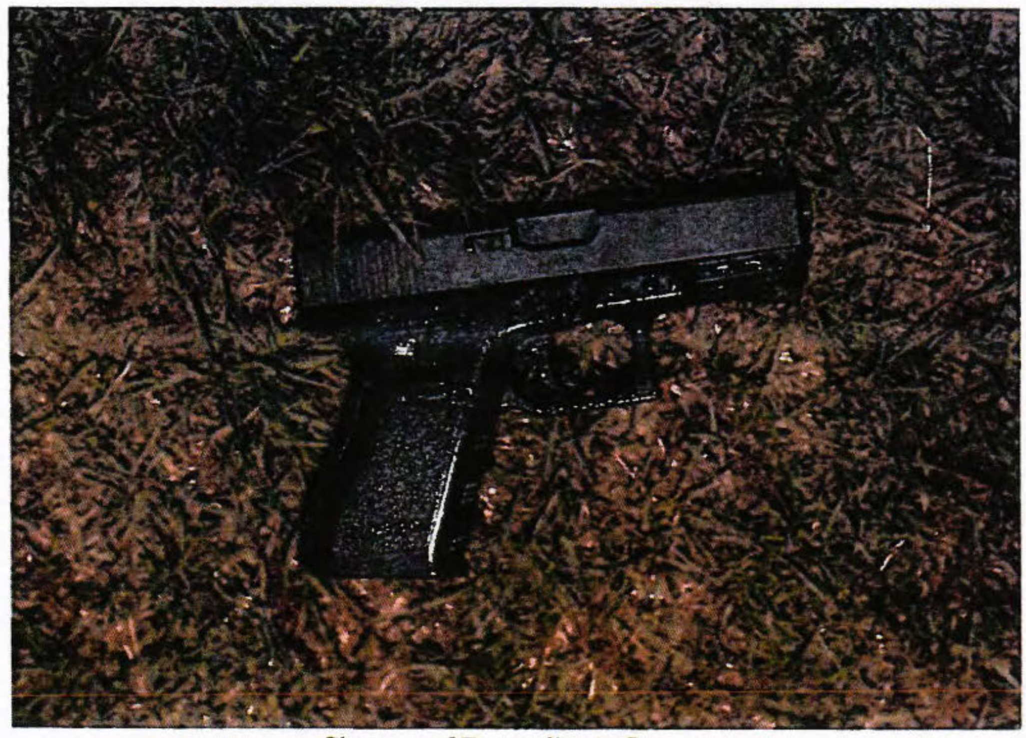
An anonymous 9-1-1 caller advised that she observed Evangelista exit the driver's side of the Mountaineer after it stopped on Mednik Avenue. Evangelista ran east on Third Street and threw unknown items over a chain link fence onto school property.

A loaded Glock, Model 23, .40 caliber semiautomatic firearm was located in the baseball field of a middle school located on the southeast corner of Mednik Avenue and Third Street. A loaded magazine was found close to the firearm. A waist gun holster was located in a trash can next to a bus stop on Third Street. Behind the trash can and bus stop is a tall chain link fence that separates the baseball field from the sidewalk.

The firearm was reported stolen in Tempe, Arizona on January 30, 2016.



Firearm and magazine recovered on the baseball field.
The camera faces Mednik Avenue. Third Street is to the right of the photograph.



Close up of Evangelista's firearm.

THE LAW

The use of deadly force in self-defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. See, *CALCRIM No. 505.*

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined shows that there was a firearm in the Mountaineer when the deputies contacted Evangelista in the parking lot. Evangelista admitted having a black handgun in the center console, however denied removing it in the deputies' presence. Sanchez and Calderon stated that they observed Evangelista lift a black handgun in his right hand after reaching around the floorboard area. The fact that the deputies were aware of the black handgun contradicts Evangelista's assertion that it remained out of view in the center console. Additionally, [redacted] saw Evangelista reaching into his right waistband, escalating the deputies' response during the encounter. [redacted] observations corroborate the deputies' statement that Evangelista was making reaching movements to his right. It also tends to impeach Evangelista's claim that he was unaware that Sanchez and Calderon were deputies until he was fleeing the parking lot. [redacted] recognized Sanchez and Calderon as deputies as soon as they pulled into the lot.

After ignoring multiple commands to stop reaching and show his hands, Evangelista lifted a handgun in his right hand. A reasonable person in Sanchez and Calderon's circumstances would be in fear of imminent death or great bodily injury. Evangelista did not immediately flee in his vehicle from the deputies. Instead, he made a continued effort to search for and take possession of the gun. It was reasonable for Calderon to believe that Evangelista armed himself in order to shoot at him. Additionally, Sanchez heard Calderon yell, "Oh, fuck!" after Evangelista began to drive away and after hearing gunfire. Sanchez reasonably believed that Evangelista had shot Calderon, or struck him with the vehicle, in an attempt to assist [redacted] to escape. The deputies were forced to react in

an instant to events quickly unfolding in front of them and they responded with reasonable deadly force.

Evangelista sustained lacerations and scratches to his right forearm. Although the evidence strongly suggests that the injuries were sustained while Evangelista jumped fences during his escape, the possibility of a grazing gunshot wound cannot be eliminated.

We conclude that Deputy Joel Calderon acted in lawful self-defense, and Deputy Juan Sanchez acted in lawful defense of others when they used deadly force against Robert Evangelista. We are therefore closing our file and will take no further action in this matter.